

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
(RALEIGH DIVISION)**

In re:)	Case No. 19-05422-5-SWH
)	
Imperial Frozen Foods Holdco, LLC,)	
)	
)	Chapter 7
Debtor.)	
)	
)	

NOTICE OF INTENT TO PRESERVE PACA TRUST BENEFITS

NOW COMES Creditor VLM Foods USA Ltd. (“VLM”) in the above-referenced case, and hereby gives notice of its intent to preserve all benefits of the trust provisions of the Perishable Agricultural Commodities Act, 7 U.S.C. § 499 et seq. (“PACA”).

VLM sold and delivered approximately 262,000 lbs. of sliced water chestnuts, pineapple chunks, Mukimame-Shelled edamame, white organic quinoa, sugar snap peas, organic whole beans, and sliced bananas to Imperial Frozen Foods, a subsidiary of the Debtor (“Imperial”), between the months of February and November 2019 which have not been paid for. Attached hereto as Exhibit “A” is a summary of the invoices covering such product and associated freight. Copies of the underlying invoices are available upon demand. Sliced water chestnuts, pineapple chunks, Mukimame-Shelled edamame, white organic quinoa, sugar snap peas, organic whole beans, and sliced bananas are perishable agricultural commodities within the meaning of PACA.

VLM is owed \$265,263.54 on account of such deliveries, including freight, after deducting all payments, credits, and offsets. Payment of this amount was due on varying dates under the invoices between August and December 2019, but was not made. That amount is a true and bona fide existing debt as of the date of this filing.

In addition, VLM delivered approximately 1,064,849 pounds of sugar snap peas, carrots, edamame beans, green beans, pineapple, Mukimame-Shelled edamame, bean sprouts, water chestnuts, bamboo shoots, whole beans, corn and quinoa to Imperial Frozen Foods (“Imperial”),

between April 2018 and November 2019 which have not been paid for. Attached hereto as Exhibit “B” is a summary of the deliveries covering such product and freight. Sugar snap peas, carrots, edamame beans, green beans, pineapple, Mukimame-Shelled edamame, bean sprouts, water chestnuts, bamboo shoots, whole beans, corn and quinoa are perishable agricultural commodities within the meaning of PACA.

VLM is owed \$829,628.68 on account of such deliveries, including freight, after deducting all payments, credits, and offsets. That amount is a true and bona fide existing debt as of the date of this filing.

VLM gives this notice as a protective notice in accordance with 11 U.S.C. § 546(b) to the extent applicable. Nothing herein is intended to constitute an attempt to enforce VLM’s rights against the Debtor or otherwise be interpreted as a violation of the automatic stay.

YOU ARE NOTIFIED that unless you file an objection to this notice no later than fourteen (14) days after the service date, and set forth the specific grounds for the objection and your relation to the case, with the clerk of court at the U.S. Bankruptcy Court, Eastern District of North Carolina at 300 Fayetteville St., 4th Floor, Raleigh, NC 27601-1799 and serve it on Glenn C. Thompson, Hamilton, Stephens, Steele & Martin, PLLC at 525 N. Tryon Street, Suite 1400, Charlotte, NC 28202, the undersigned will proceed to take the proposed action, or apply for an order if required, without further notice or a hearing.

(Signature page follows)

This the 4th day of December, 2019

HAMILTON STEPHENS
STEELE + MARTIN, PLLC

/s/ Glenn C. Thompson

Glenn C. Thompson (N.C. Bar No. 37221)

gthompson@lawhssm.com

525 N. Tryon Street, Suite 1400

Charlotte, NC 28202

Telephone: 704.227.1067

Facsimile: 704.344.1483

-and-

Scott E. Blakeley (CA Bar No. 141418)

Blakeley LLP

18500 Von Karman Avenue,

Suite 530

Irvine, CA 92612

Phone: 949-260-0611

Fax: 949-260-0613

SEB@BlakeleyLLP.com

Attorneys for Creditor

VLM Foods USA Ltd.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
(RALEIGH DIVISION)**

In re:)	Case No. 19-05422-5-SWH
)	
Imperial Frozen Foods Holdco, LLC,)	
)	
)	Chapter 7
Debtor.)	
)	
)	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am, and at all times hereafter mentioned was, more than 18 years of age and that on this day I caused a copy of the foregoing **NOTICE OF INTENT TO PRESERVE PACA TRUST BENEFITS** to be served (i) by electronic notification on those parties registered with the United States Bankruptcy Court for the Eastern District of North Carolina ECF system to receive notices for this case and (ii) by first class United States mail, postage prepaid, as indicated below.

Gerald A. Jeutter, Jr.
Smith Anderson, LLP
PO Box 2611
Raleigh, NC 27601-2611

Gregory B. Crampton
Nicholls & Crampton, P.A.
PO Box 18237
Raleigh, NC 27619

Dated: December 4, 2019

/s/ Glenn C. Thompson

Glenn C. Thompson

HAMILTON STEPHENS
STEELE + MARTIN, PLLC
525 North Tryon Street, Suite 1400
Charlotte, NC 28202